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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) SHO-0036	
	Application Number 10/697,041-Conf. #8363	Filed October 31, 2003	
	First Named Inventor Hideaki IMURA et al.		
	Art Unit 3714	Examiner A. Kim	

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

- applicant /inventor.
- assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b)
is enclosed. (Form PTO/SB/96)
- attorney or agent of record.

Registration number 29,211

Signature

Carl Schaukowitch
Typed or printed name

- attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34. _____

(202) 955-3750

Telephone number

September 21, 2007

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.

*Total of 1 form is submitted.



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Hideaki IMURA et al.

Application No.: 10/697,041

Filed: October 31, 2003

For: GAMING MACHINE

Attorney Docket No.: SHO-0036

Examiner: A. Kim

Art Unit: 3712

Confirmation No.: 8363

ARGUMENTS FOR PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

The Examiner issued an Advisory Action dated August 31, 2007, in response to Applicant's Amendment after Final Rejection under 37 CFR 1.116 filed on August 21, 2007. Applicants' Amendment after Final Rejection was filed in response to the final Office Action dated May 21, 2007. A complete listing of the claims and the appropriate status identifiers can be found in Applicant's Amendment after Final Rejection on pages 2-4. Only claim 1 was amended in Applicants' Amendment after Final Rejection with such amendments being entered for purposes of appeal.

The period for response is extended to September 21, 2007, by the Petition for Extension of Time filed herewith.

In the final Office Action dated May 21, 2007:

Claim 1 is rejected under 35 USC 112, second paragraph, as indefinite for allegedly failing to particularly point out and distinctly claim the subject matter of the invention. Claim 1 was amended to obviate this rejection.

Claim 1, 2, 3 and 5-12 are rejected under 35 U.S.C. 103(a) as unpatentable over Mizukai et al. (JP 2001-161950). Claim 4 is rejected under 35 U.S.C. 103(a) as unpatentable over Mizukai in view of Ozaki et al. (U.S. Patent Application Publication No. 2001/0031658). These rejections are respectfully traversed.

Mizukai et al. disclose a symbol variable display including a large-sized ornament component on which a visible display part is formed. The visible display part conforms to a lens section of a symbol variable display. The symbol variable display includes a transparent member, a hold case member, symbol display units and an electric control board. The transparent member has a single-piece construction made of transparent synthetic resin and includes a frame part and the lens part that conforms to the visible display part.

Regarding Claims 1, 2, 8 and 10, it is respectfully submitted that Mizukai fails to teach "the image display device ... configured to display an image concerning a game." As argued in the response to the previous Office Action, Mizukai merely teaches a transparent member as the visible display part.

Further, especially with regard to claim 1, Mizukai does not teach "image display device ... through a flat symbol transmission face" as claimed but merely teaches the lens section 23 having a concave shape.

As described above, since Mizukai does not disclose the image display, Mizukai fails to teach "the image display assistance device ... configured to assist image display of the image display device" as recited in claims 1, 2 and 10.

Mizukai does not teach or suggest "the image display assistance device ... being provided lateral to an area between the variable display device and the image display device ...".

The Office Action alleges that it would have been obvious to place reflecting plates of Mizukai to the area between the symbols and the image display to assist in illuminating the area in front of the symbol face without obstructing the player's view of the symbol.

Mizukai does not teach the image display of the image display device but merely teaches the reflecting plate (57) for indirectly illuminating the area behind the symbol drum (37) (see paragraph 0021). Therefore, it is respectfully submitted that it would not obvious to place the image display lateral to the area, which is configured to assist image display of the image display device as claimed in claims 1, 2 and 10.

Furthermore, regarding claims 1, 2, 8 and 10, the Office Action simply points out that it would be obvious to place the reflecting plate of Mizukai lateral to an area between the variable display device and the image display device. The conclusion that the claimed subject matter is obvious must be supported by evidence, as shown by some objective teaching in the prior art or by knowledge generally available to one of ordinary skill in the art that would have led the individual to combine the relevant teachings of the reference to arrive at the claimed invention. See In re Fine, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). The Examiner may not, because of doubt that the invention is patentable, resort to speculation, unfounded assumptions or hindsight reconstruction to supply deficiencies in the factual basis for the rejection. See In re Warner, 379 F.2d 1011, 1017, 154 USPQ 173, 177 (CCPA 1967), cert. denied, 389 U.S. 1057 (1968). It is respectfully submitted that the conclusion of obviousness is based upon the Applicants' invention and, thus, is considered hindsight reconstruction.

Additionally, it is respectfully submitted that the results and advantages are a part of the claimed invention as a whole. It is a basic tenet of patent law that the U.S. Patent and Trademark Office is not permitted to ignore the results and advantages produced by claimed subject matter, of which the prior art is devoid, simply because the claimed limitations are similar to that otherwise barren prior art. Diversitech Corp. v. Century Steps, Inc., 850 F.2d 675, 7 USPQ2d 1315 (Fed. Cir. 1988); In re Chupp, 816 F.2d 643, 2 USPQ2d 1437 (Fed. Cir. 1987); Formson v. Advance Offset Plate, 755 F.2d 1549, 225 USPQ 26 (Fed. Cir. 1985).

To this end, claim 1 recites (a) an image display device ... configured to display the symbols through a flat symbol transmission face and to display an image concerning a game; and (b) an image display assistance device being provided lateral to an area between the variable display device and the image display device. In the summary section of the specification, the problem of producing the black triangular region is discussed, when a display (not a simple transparent resin) having a flat face is used. In addition, the summary section also indicates this problem does not occur when no liquid crystal is provided on the front of the display window (that is,

the display window has no image display function). In order to solve the problem, the image assistance device is provided lateral to ..., as claimed. Mizukai's visible part does not have the flat symbol transmission face and also does not display an image. Therefore, it would not have been obvious to place the image display assistance device lateral to the area as claimed.

It is respectfully submitted that that the applied art fails to teach or suggest the features of the claims as discussed above. Thus, it is respectfully submitted that one of ordinary skill in the art would not be motivated to modify or combine the features of the applied art because such references are devoid of such features. As a result, it is respectfully submitted that the claims are allowable over the applied art.

Withdrawal of the rejections is respectfully requested.

Should additional fees be necessary in connection with the filing of this paper or if a Petition for Extension of Time is required for timely acceptance of the same, the Commissioner is hereby authorized to charge Deposit Account No. 18-0013 for any such fees and Applicant(s) hereby petition for such extension of time.

Respectfully submitted,

By: 
Carl Schaukowitch
Reg. No. 29,211

Date: September 21, 2007

RADER, FISHMAN & GRAUER PLLC
1233 20th Street, N.W. Suite 501
Washington, D.C. 20036
Tel: (202) 955-3750
Fax: (202) 955-3751
Customer No. 23353

Enclosure(s): Notice of Appeal
Pre-Appeal Brief Request for Review
Petition for Extension of Time (one month)

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